

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,
Plaintiff,

v.

FRANCHIE FARMER,
Defendant.

Case No. 11–CR–40073–JPG

ORDER

Before the Court is Defendant Franchie Farmer’s Motion for Compassionate Release. (ECF No. 126).

Farmer has been serving a 141-month sentence for armed bank robbery since 2012. (Judgment at 1, ECF No. 86). She is incarcerated at Federal Medical Center (“FMC”) Lexington in Kentucky. (Def.’s Mot. at 5).

In December 2020, Farmer moved for a sentence modification under 18 U.S.C. § 3582(c)(1)(A), also called *compassionate release*. (Def.’s Mot. at 1). She contends that a serious medical condition—pitting edema—makes her especially vulnerable to the COVID-19 virus. (*Id.* at 4). In brief, Farmer argues that her increased risk of experiencing serious complications if she contracts COVID-19 is an *extraordinary and compelling* reason warranting her release. (*See id.* at 1–5).

District courts generally “may not modify a term of imprisonment once it has been imposed” 18 U.S.C. § 3582(c). That said, an exception exists for when “extraordinary and compelling reasons warrant such a reduction” *Id.* § 3582(c)(1)(A)(i). The burden of proof rests on the defendant. *See United States v. Jones*, 836 F.3d 896, 899 (8th Cir. 2016); *United States v. Green*, 764 F.3d 1352, 1356 (11th Cir. 2014).

The Court acknowledges the particular danger posed by COVID-19 to prisoners, who live in close quarters and often cannot practice social distancing. “But the mere existence of COVID-19 in society and the possibility that it may spread to a particular prison alone cannot independently justify compassionate release” *United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020). The Director of the Bureau of Prisons is in the best position to know which inmates are most vulnerable to infection and whether they still pose a public-safety risk. And since March 2020, the Bureau has released over 25,000 inmates that it has identified as “suitable for home confinement,” *Coronavirus*, Bureau of Prisons (last visited May 7, 2021),¹ “a 250% increase in home confinement placements since the beginning of the pandemic,” Statement of Michael D. Carvajal, Director, Federal Bureau of Prisons Before the Committee on the Judiciary, United States Senate (Apr. 15, 2021).² More importantly, as of April 19, 2021, *all federal inmates are eligible for a vaccine. Id.* As a result, the Director expects that “by mid-May, . . . all inmates will have been provided the opportunity to be vaccinated.” *Id.*

With that in mind, there are not extraordinary and compelling reasons warranting a sentence modification here. Farmer may have already been vaccinated since moving for compassionate release. If not, then she may receive the vaccine now. If she rejects it for whatever reason, the risk of infection will still be greatly reduced thanks to the more than 80,000 inmates that have accepted invitations to receive the vaccine (40,000 of which have already received both doses). *Oversight of the Federal Bureau of Prisons: Hearing Before the Judiciary Comm.*, 117 Cong. (2021) (statement of Michael Carvajal, Dir. of BOP).³ And according to the Bureau,

¹ Available at <https://www.bop.gov/coronavirus/>.

² Available at <https://www.judiciary.senate.gov/imo/media/doc/BOP%20Director%20-%20%20Written%20Statement%202021-04-15%20SJC%20Hearing%20.pdf>.

³ Available at <https://www.judiciary.senate.gov/meetings/04/08/2021/oversight-of-the-federal-bureau-of-prisons>.

only one inmate at FMC Lexington currently has the virus. *Coronavirus*, BOP (last visited May 7, 2021).⁴ In sum, the risk posed to Farmer by the pandemic is not currently extraordinary and compelling. If the situation changes, then she may move for compassionate release again after exhausting her administrative remedies.

For those reasons, the Court **DENIES** Defendant Frenchie Farmer's Motion for Compassionate Release.

IT IS SO ORDERED.

Dated: Friday, May 7, 2021

S/J. Phil Gilbert
J. PHIL GILBERT
UNITED STATES DISTRICT JUDGE

⁴ Available at <https://www.bop.gov/coronavirus/>.